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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAY 21 2012

U.I.L. 402.08-00

T:EP:RA:TS

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XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A = XXXXXXXXXXXXXXXX
Plan X = XXXXXXXXXXXXXXXX

Amount C = XXXXXXXXXXXXXXXX
Amount D = XXXXXXXXXXXXXXXX
Date 1 = XXXXXXXXXXXXXXXX

Dear XXXXXXXXXX:

This is in response to your letter dated XXXXXXXXXX, as supplemented by correspondence dated XXXXXXXXXX, and XXXXXXXXXX, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code (the Code).

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age 51, represents that she received a distribution from Plan X totaling Amount C on Date 1. Taxpayer A asserts that her failure to accomplish a rollover of Amount D, a portion of Amount C, within the 60-day period prescribed by section 402(c)(3) of the Code was due to her medical condition which impaired her ability to accomplish a timely rollover.

Taxpayer A is medically disabled and retired on disability due to her medical condition. Taxpayer A requested and received a distribution from Plan X because she thought it would be to her advantage to have extra funds available in case of

medical emergency. However after Taxpayer A received the distribution from Plan X, she realized that she did not need all of the extra money for her medical expenses because she was receiving worker compensation disability benefits and her medical insurance covered most of her medical expenses. Accordingly, within the 60-day rollover period, she tried to return Amount D to Plan X, but Plan X's sponsor would not allow her to do so.

Taxpayer A represents that because of her continuous anxiety, together with her medical condition, she lost the original check of Amount C. Taxpayer A requested a replacement check and tried, after receiving the replacement check, to roll it over but could not complete the rollover in time due to her disability, medical condition and dependence on a family member.

Based on the above facts and representations, Taxpayer A requests a ruling that the Internal Revenue Service (the Service) waive the 60-day rollover requirement contained in section 402(c)(3) of the Code with respect to the distribution of Amount D (a partial rollover of Amount C).

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be included in gross income for the taxable year in which paid. Section 402(c)(3)(A) of the Code states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted is consistent with Taxpayer A's assertion that her failure to accomplish a timely rollover of Amount D was due to her medical condition.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount D into another qualified plan or a rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount D will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter is being sent to your authorized representative pursuant to a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact xxxxxxxxxxxxxxxxxxxxxx, SE:T:EP:RA:T3, at xxxxxxxxxxxxxx.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of letter ruling
Notice of Intention to Disclose

Cc: xxxxxxxxxxxxxxxxxxxxxx.